APPEAL NO. 021520
FILED JULY 30, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing was held on May 9, 2002 with the record closing on May 28, 2002. The hearing officer determined that the appellant's (claimant) _____, compensable rib injury extends to and includes contusions to both knees, but that it does not extend to and include his lumbar spine, thoracic spine, right hip, right leg, or head. The hearing officer further determined that as a result of his _____, compensable injury the claimant had disability from _____, to November 26, 2001. The claimant appealed on sufficiency grounds and asserted evidentiary error by the hearing officer. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's _____, compensable injury does not extend to and include his lumbar spine, thoracic spine, right hip, right leg, or head, and that he had disability as a result of his compensable injury only from _____, to November 26, 2001. The issues of extent of injury and disability presented questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). There was conflicting evidence presented on the disputed issues. Nothing in our review of the record indicates that the hearing officer's decision is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Company, 715 S.W.2d 629, 635 (Tex. 1986).

The claimant additionally asserts that the hearing officer erred in holding the record open to allow the claimant to undergo an MRI of his lumbar spine so that she could review the results prior to making her extent-of-injury determination. We find no merit in this assertion and determine that the hearing officer did not commit reversible error. The claimant repeatedly testified that he wanted to return to work but the carrier refused to pay for a lumbar MRI and his doctor would not release him until he received MRI results. The claimant testified that the lumbar MRI was finally approved and would have been done just prior to the hearing but for the fact that the machine was broken. We fail to see how holding the record open in an extent-of-injury case to obtain diagnostic testing results can be said to be prejudicial to either party. Additionally, there is no evidence in the record to show that the hearing officer solely relied on the objected-to test results in arriving at her decision.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **AMERICAN ZURICH INSURANCE COMPANY** and the name and address of its registered agent for service of process is

GARY SUDOL
9330 LBJ FREEWAY, SUITE 1200
DALLAS, TEXAS 75243.

_____
Daniel R. Barry
Appeals Judge

CONCUR:

_____
Judy L. S. Barnes
Appeals Judge

_____
Gary L. Kilgore
Appeals Judge